

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SLEEPY'S, LLC, :
: :
Plaintiff, : :
: 07 CV 4018 (TCP) (ARL)
- against - :
: :
SELECT COMFORT WHOLESALE CORPORATION, :
SELECT COMFORT RETAIL CORPORATION and :
SELECT COMFORT CORPORATION, :
: :
Defendants. :
----- x

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION
FOR AN ORDER ADOPTING THE SPECIAL MASTER'S MEMORANDUM & ORDER
GRANTING PLAINTIFF'S MOTION *IN LIMINE* TO PRECLUDE DEFENDANTS
FROM PRESENTING CERTAIN ALLEGED DEFENSES**

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February 15, 2012

STATEMENT IN SUPPORT OF PLAINTIFF'S MOTION

On October 13, 2011, Plaintiff Sleepy's, LLC ("Sleepy's") moved for an Order precluding Defendants from presenting certain alleged defenses (the "Motion"). The Motion was fully briefed, and filed with the Court on November 30, 2011.

By Order dated January 10, 2012 the Court appointed Hon. Stephen G. Crane as Special Master in this litigation, pursuant to Fed. R. Civ. P. 53, to, *inter alia*, rule on the Motion.

On February 8, 2012, Special Master Crane issued a Memorandum & Order in which Sleepy's motion was granted.

Sleepy's respectfully requests that this Court enter an Order adopting the Special Master's Memorandum & Order. After a ruling by a Special Master, a party may move to adopt the Master's order. Fed. R. Civ. P. 53(f)(2); Moore's Federal Practice § 53.41.

CONCLUSION

For the foregoing reasons, this Court should enter an Order adopting the Memorandum & Order of the Special Master.

Dated: New York, New York
February 15, 2012

Respectfully submitted,

TANNENBAUM HELPERN SYRACUSE
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